Senate State & Local Government
Committee Amendment #1

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by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. As used in this act, unless the context otherwise requires:

(1) "Committee" means the local government planning advisory committee established by §4-3-727.

(2) "Council" means the joint economic and community development council established by Section 15 of this act.

(3) "Growth Plan" means the plan each county must file with the committee by July 1, 2001, as required by the provisions of Section 8.

(4) "Planned growth area" means an area established in conformance with the provisions of Section 7(b) and approved in accordance with the requirements of Section 5.

(5) "Rural area" means an area established in conformance with the provisions of Section 7(c) and approved in accordance with the requirements of Section 5.

(6) "Urban Growth Boundary" means a line encompassing territory established in conformance with the provisions of Section 7(a) and approved in accordance with the requirements of Section 5.

SECTION 2. Tennessee Code Annotated, Title 6, is amended by adding Sections 3 through 16 as a new chapter 58.

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SECTION 3. With this act, the general assembly intends to establish a comprehensive growth policy for this state that:

(1) Eliminates annexation or incorporation out of fear;

(2) Establishes incentives to annex or incorporate where appropriate;

(3) More closely matches the timing of development and the provision of public services;

(4) Stabilizes each county's education funding base and establishes an incentive for each county legislative body to be more interested in education matters; and

(5) Minimizes urban sprawl.

SECTION 4.

(a) The provisions of this chapter shall not apply to any county having a metropolitan form of government. Provided, however, each such county shall receive full benefit of all incentives available pursuant to Section 10, and each such county shall escape the sanctions imposed by Sections 11 and 18. Provided, further, any municipality that lies within a county having a metropolitan form of government and another county must establish an urban growth boundary in conjunction with the county containing the territory that is not within the county having a metropolitan form of government.

(b) Notwithstanding the provisions of this act to the contrary, **IF** a metropolitan government charter commission is duly created within any county after the effective date of this

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act but prior to July 1, 2001, **AND IF** the metropolitan charter proposed by such commission is either rejected or otherwise not ratified by the voters prior to July 1, 2001, **THEN** the sanctions established by Sections 11 and 18 shall not be imposed in such county prior to July 1, 2002.

SECTION 5. (a)(1) Each municipality shall identify its urban growth boundaries in conformance with the provisions of Section 7. In identifying such urban growth boundaries, the municipality is strongly advised and encouraged to collaborate with the affected county and with all other municipalities located or proposing to be located within such county. Such urban growth boundaries shall be endorsed by majority vote of the municipal legislative body, except to the extent that alternative urban growth boundaries are adopted for the municipality by a dispute resolution panel or by the local government planning advisory committee. On or before July 1, 2001, the municipality shall obtain approval of its urban growth boundaries in accordance with the provisions of subsections (c) and (d).

(2) The municipality's urban growth boundaries may not overlap the urban growth boundaries of any other municipality. In order to avoid any such overlap, the affected municipalities shall attempt to resolve such dispute through negotiation. If, after reasonable efforts, such negotiations do not resolve the dispute, then the affected municipalities may declare the existence of an impasse and submit the overlapping urban growth boundaries for resolution in accordance with the provisions of subsection (c). In attempting to resolve any such dispute, due consideration shall be given if one of the municipalities is better situated to efficiently and effectively provide urban services

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within the disputed territory; due consideration shall also be given if one of the municipalities detrimentally relied upon priority status conferred under prior annexation law and, thereby, justifiably incurred significant expense in preparation for annexation of the disputed territory.

(3)(A) A municipality may make binding agreements with other municipalities and with counties to refrain from exercising any power or privilege granted to the municipality by this chapter, to any degree contained in the agreement, including but not limited to the authority to annex.

(B) A county may make binding agreements with municipalities to refrain from exercising any power or privilege granted to the county by this chapter, to any degree contained in the agreement, including but not limited to the authority to receive annexation date revenue.

(C) Any agreement made pursuant to this subsection need not have a set term, but after the agreement has been in effect for five (5) years, any party upon giving ninety (90) days written notice to the other parties is entitled to a renegotiation or termination of the agreement.

(4)(A) Notwithstanding any provisions of this chapter or any other provision of law to the contrary, any annexation reserve agreement or any agreement of any kind either between municipalities or between municipalities and counties setting out areas reserved for future municipal annexation and in effect on the effective date of this act are

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ratified and remain binding and in full force and effect. Any such agreement may be amended from time to time by mutual agreement of the parties. Any such agreement or amendment may not be construed to abrogate the application of any provision of this chapter to the area annexed pursuant to the agreement or amendment.

(B) In any county with a charter form of government, the annexation reserve agreements in effect on the effective date of this act are deemed to satisfy the requirement of a growth plan. The county shall file a plan based on such agreements with the committee.

(5)(A) No provision of this chapter shall operate to invalidate an annexation ordinance done pursuant to a written contract between a municipality and a developer in existence on the effective date of this act.

(B) This subsection subdivision (5) shall only apply to municipal and county governments in any county with a charter form of government.

(b) Each county shall identify its planned growth areas and rural areas in conformance with the provisions of Section 7. In identifying such planned growth areas and rural areas, the county is strongly advised and encouraged to collaborate with all municipalities located or proposing to be located within the county. Such planned growth areas and rural areas shall be endorsed by majority vote of the county legislative body, except to the extent that alternative planned growth areas and/or alternative rural areas are adopted for the county by a dispute resolution panel or by the local government planning advisory committee. On or before July 1,

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2001, the county shall obtain approval of its planned growth areas and rural areas in accordance with the provisions of subsection (d).

(c) On or before July 1, 2001, each municipality shall submit its urban growth boundaries for approval by the legislative body for the county in which the urban growth territory is located. If urban growth boundaries are timely submitted to, but are not adopted by, the county legislative body because of conflicts with planned growth areas or rural areas or for any other reason, then the county legislative body and the affected municipality or municipalities shall attempt to resolve such disputes through negotiation. If, after reasonable efforts, one or more of the disputes remain unresolved, then the county legislative body or any one or more of the affected municipalities may declare the existence of an impasse and may request the secretary of state to provide an alternative method for resolution of such disputes. Upon receiving such request, the secretary of state shall promptly appoint a dispute resolution panel. The panel shall consist of three (3) members, each of whom shall be appointed from the ranks of the administrative law judges employed within the administrative procedures division and each of whom shall possess formal training in the methods and techniques of dispute resolution and mediation. Provided, however, if all parties to the dispute agree, the secretary of state may appoint a single administrative law judge rather than a panel of three (3) members. No member of such panel, nor the immediate family of any such member or such member's spouse, may be a resident, property owner, official or employee of the county or of any municipality located or proposing to be located within such county. All such unresolved disputes affecting territory

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within such county shall be consolidated and assigned to such panel. The panel shall attempt to mediate the unresolved disputes. If, after reasonable efforts, mediation does not resolve such disputes, then the panel shall propose a non-binding resolution thereof. The county legislative body and the affected municipality or municipalities shall be given a reasonable period in which to consider such proposal. If the county legislative body and the affected municipality or municipalities do not accept and approve such resolution, then they may submit final recommendations to the panel. For the sole purpose of resolving the impasse, the panel shall identify and adopt alternative urban growth boundaries for the affected municipalities and/or alternative planned growth areas and/or alternative rural areas for the county. The alternative urban growth boundaries, planned growth areas and/or rural areas adopted by the panel shall conform with the provisions of Section 7; shall supersede and replace all conflicting urban growth boundaries endorsed by the municipal legislative body or bodies and all conflicting planned growth areas and/or rural areas endorsed by the county legislative body; and shall be submitted for approval in accordance with the provisions of subsection (d). The secretary of state shall certify the reasonable and necessary costs incurred by the dispute resolution panel, including, but not necessarily limited to, salaries, supplies, travel expenses and staff support for the panel members. The county and each of the affected municipalities shall reimburse the secretary of state for such costs, to be allocated on a pro rata basis calculated on the number of persons residing within each of the affected municipalities and the number of persons residing within the unincorporated areas of the county; provided, however, if the dispute resolution panel

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determines that the dispute resolution process was necessitated or unduly prolonged by bad faith or frivolous actions on the part of the county and/or any one or more of the municipalities, then the secretary of state may, upon the recommendation of the panel, reallocate liability for such reimbursement in a manner clearly punitive to such bad faith or frivolous actions. If a county or municipality fails to reimburse its allocated or reallocated share of panel costs to the secretary of state after sixty (60) days notice of such costs, the department of finance and administration shall deduct such costs from such county's or a municipality's allocation of state shared taxes.

(d) On or before July 1, 2001, urban growth boundaries, planned growth areas and rural areas approved by the county legislative body or alternatively adopted by a dispute resolution panel shall be submitted to and approved by the local government planning advisory committee. **IF** urban growth boundaries throughout the county were approved by the respective municipal legislative bodies, **AND IF** such urban growth boundaries were submitted to and approved by the county legislative body, **AND IF** the planned growth areas and rural areas throughout the county were approved by the county legislative body, **THEN** the committee shall grant its approval, and such urban growth boundaries, planned growth areas and rural areas shall immediately become effective. In addition, in any county with a charter form of government, the annexation reserve agreements in effect on the effective date of this act are deemed to satisfy the requirement of a growth plan. The committee shall approve such plan. In all other cases, **IF** the local government planning advisory committee determines that such urban growth

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boundaries, planned growth areas and rural areas conform with the provisions of Section 7, **THEN** the committee shall grant its approval and such urban growth boundaries, planned growth areas and rural areas shall immediately become effective; **HOWEVER, IF** the committee determines that such urban growth boundaries, planned growth areas and/or rural areas in any way do not conform with the provisions of Section 7, **THEN** the committee shall adopt and grant its approval of alternative urban growth boundaries, planned growth areas and/or rural areas for the sole purpose of making the adjustments necessary to achieve conformance with the provisions of Section 7. Such alternative urban growth boundaries, planned growth areas and/or rural areas shall supersede and replace all conflicting urban growth boundaries, planned growth areas and/or rural areas and shall immediately become effective.

(e)(1) After a county and the municipalities within the county have filed a plan with the committee or had a plan approved by the dispute resolution process, the plan shall stay in effect for not less than three (3) years absent a showing of extraordinary circumstances. After the expiration of the three (3) year period, a municipality may file a proposed amendment of its urban growth boundary by notifying the county and each municipality within the county. Each municipality may elect to participate in any amendment process involving urban growth boundaries within the county. The burden of proving the reasonableness of the proposed change in a boundary is on the municipality proposing the change.

(2) After the expiration of the three (3) year period, a county may file a proposed amendment for the creation or expansion of a planned growth area or modification of a rural

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area. Each municipality may elect to participate in any amendment process involving urban growth boundaries within the county. The burden of proving the reasonableness of the proposed change in a boundary is on the county proposing the change.

SECTION 6. (a) The affected county, an affected municipality, a resident of such county or an owner of real property located within such county is entitled to judicial review under this section, which shall be the exclusive method for judicial review of urban growth boundaries, planned growth areas and rural areas. Proceedings for review shall be instituted by filing a petition for review in the chancery court of the affected county. Such petition shall be filed during the sixty (60) day period after final approval of such urban growth boundaries, planned growth areas and rural areas by the committee. In accordance with the provisions of the Tennessee rules of civil procedure pertaining to service of process, copies of the petition shall be served upon the local government planning advisory committee, the county and each municipality located or proposing to be located within the county.

(b) Judicial review shall be de novo and shall be conducted by the chancery court without a jury. The petitioner shall have the burden of proving, by clear and convincing evidence, that the urban growth boundaries, planned growth areas and/or rural areas are invalid because the endorsement, adoption or approval thereof was granted in an arbitrary, capricious, illegal or other manner characterized by abuse of official discretion. The filing of the petition for review does not itself stay effectiveness of the urban growth boundaries, planned growth areas and rural areas; provided, however, the court may order a stay upon appropriate terms if it is

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shown to the satisfaction of the court that any party or the public at large is likely to suffer significant injury if such stay is not granted. If more than one suit is filed within the county, then all such suits shall be consolidated and tried as one.

(c) **IF** the court finds by clear and convincing evidence that the urban growth boundaries, planned growth areas and/or rural areas are invalid because the endorsement, adoption or approval thereof was granted in an arbitrary, capricious, illegal or other manner characterized by abuse of official discretion, **THEN** an order shall be issued vacating the same, in whole or in part, and remanding the same to the county and the affected municipalities in order to identify and obtain endorsement, adoption and/or approval of urban growth boundaries, planned growth areas and/or rural areas in conformance with the procedures set forth within Section 5.

(d) Any party to the suit, aggrieved by the ruling of the chancery court, may obtain a review of the final judgment of the chancery court by appeal to the court of appeals of Tennessee.

SECTION 7.

(a)

(1) The urban growth boundaries of a municipality shall:

(A) Identify territory that is reasonably compact;

(B) Identify territory that is contiguous to the existing boundaries of the municipality;

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(C) Identify territory that a reasonable and prudent person would project as the likely site of high density commercial, industrial and/or residential growth over the next twenty (20) years based on historical experience, economic trends, population growth patterns and topographical characteristics;

(D) Identify territory in which the municipality is better situated than other municipalities to efficiently and effectively provide urban services; and

(E) Reflect the municipality's duty to facilitate full development of resources within the current boundaries of the municipality and to manage and control urban expansion outside of such current boundaries, taking into account the impact to agricultural lands, forests, recreational areas and wildlife management areas.

(2) Before formally identifying urban growth boundaries, the municipality shall develop and report population growth projections, such projections to be developed in conjunction with the University of Tennessee. The municipality shall also determine and report the current costs and the projected costs of core infrastructure, urban services and public facilities necessary to facilitate full development of resources within the current boundaries of the municipality and to expand such infrastructure, services and facilities throughout the territory under consideration for inclusion within the urban growth boundaries. The municipality shall also determine and report on the need for additional land suitable for high density, industrial, commercial and residential development, after

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taking into account all areas within the municipality's current boundaries that can be used, reused or redeveloped to meet such needs. The municipality shall examine and report on agricultural lands, forests, recreational areas and wildlife management areas within the territory under consideration for inclusion within the urban growth boundaries and shall examine and report on the likely long-term effects of urban expansion on such agricultural lands, forests, recreational areas and wildlife management areas.

(3) Before a municipal legislative body may endorse urban growth boundaries as required by the provisions of Section 5(a)(1), the municipality shall conduct at least one public hearing. Notice of the time and place of the public hearing shall be published in a newspaper of general circulation in the municipality not less than seven (7) days before the hearing.

(b)

(1) Each planned growth area of a county shall:

(A) Identify territory that is reasonably compact;

(B) Identify territory that is not within the existing boundaries of any municipality;

(C) Identify territory that a reasonable and prudent person would project as the likely site of high or moderate density commercial, industrial and/or residential growth over the next twenty (20) years based on historical experience, economic trends, population growth patterns and topographical features;

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(D) Identify territory that is not contained within urban growth boundaries; and

(E) Reflect the county's duty to manage natural resources and to manage and control urban growth taking into account the impact to agricultural lands, forests, recreational areas and wildlife management areas.

(2) Before formally identifying any planned growth area, the county shall develop and report population growth projections, such projections to be developed in conjunction with the University of Tennessee. The county shall also determine and report the projected costs of providing urban type core infrastructure, urban services and facilities public throughout the territory under consideration for inclusion within the planned growth area as well as the feasibility of recouping such costs by imposition of fees or taxes within the planned growth area. The county shall also determine and report on the need for additional land suitable for high density industrial, commercial and residential development after taking into account all areas within the current boundaries of municipalities that can be used, reused or redeveloped to meet such needs. The county shall also determine and report on the likelihood that the territory under consideration for inclusion within the planned growth area will eventually incorporate as a new municipality or be annexed. The county shall also examine and report on agricultural lands, forests, recreational areas and wildlife management areas within the territory under consideration for inclusion within the planned growth area and shall

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examine and report on the likely long-term effects of urban expansion on such agricultural lands, forests, recreational areas and wildlife management areas.

(3) Before a county legislative body may endorse planned growth areas, as required by the provisions of Section 5(b), the county shall conduct at least one (1) public hearing. Notice of the time and place of the public hearing shall be published in a newspaper of general circulation in the county not less than seven (7) days before the hearing.

(c)

(1) Each rural area shall:

(A) Identify territory that is not within urban growth boundaries;

(B) Identify territory that is not within a planned growth area;

(C) Identify territory that, over the next twenty (20) years, is to be preserved as agricultural lands, forests, recreational areas, wildlife management areas or for uses other than high density commercial, industrial or residential development;

(D) Identify territory in which sanitary sewer services will not be expanded and in which any license, permit or other regulatory action conducive to high density development will not be granted; and

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(E) Reflect the county's duty to manage growth and natural resources in a manner which reasonably minimizes detrimental impact to agricultural lands, forests, recreational areas and wildlife management areas.

(2) Before a county legislative body may endorse rural areas as required by the provisions of Section 5(b), the county shall conduct at least one public hearing. Notice of the time and place of the public hearing shall be published in a newspaper of general circulation in the county not less than seven (7) days before the hearing.

SECTION 8. The legislative body of each county and municipality shall, no later than July 1, 2001, prepare or cause to be prepared, adopt, and, from time to time review and amend, a growth plan. After the legislative body of a county or municipality adopts a growth plan, all land use decisions made by the legislative body and the municipality's or county's planning commission shall be consistent with the growth plan. The growth plan shall include as a minimum documents describing and depicting municipal corporate limits, as well as urban growth boundaries, planned growth areas, if any, and rural areas, if any, approved in conformance with the provisions of Section 5. The purpose of a growth plan is to direct the coordinated, efficient, and orderly development of the local government and its environs that will, based on an analysis of present and future needs, best promote the public health, safety, morals and general welfare. A growth plan may address land-use, transportation, public infrastructure, housing, and economic development. The goals and objectives of a growth plan include the need to:

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(1) Provide a unified physical design for the development of the local government;

(2) Encourage a pattern of compact and contiguous high density development to be guided into urban areas or planned growth areas;

(3) Establish an acceptable and consistent level of public services and community facilities and ensure timely provision of those services and facilities;

(4) Promote the adequate provision of employment opportunities and the economic health of the region;

(5) Conserve features of significant statewide or regional architectural, cultural, historical, or archaeological interest;

(6) Protect life and property from the effects of natural hazards, such as flooding, winds, and wildfires; and

(7) Take into consideration such other matters that may be logically related to or form an integral part of a plan for the coordinated, efficient and orderly development of the local government.

SECTION 9. (a) After the effective date of this act but prior to the adoption of its growth plan by the committee, a municipality may annex territory by ordinance as provided by §6-51-102, if the county concurs in the annexation by adopting a resolution within sixty (60) days of the final passage of the annexation ordinance.

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(b)(1) If a county fails to concur in the annexation as provided in (a) above, a county shall be deemed an aggrieved owner of property giving the county standing to contest an annexation ordinance if the county is petitioned by a majority of the property owners by parcel within the territory which is the subject of the annexation to represent their interests. In determining a majority of property owners, a parcel of property with more than one owner shall be counted only once and only if owners comprising a majority of the ownership interests in the parcel petition together as the owner of the particular parcel.

(2) A petition by property owners under this section shall be presented to the county clerk, who shall forward a copy of such petition to the county executive, county assessor of property and the chairperson of the county legislative body. After examining the evidence of title based upon the county records, within fifteen (15) days of receiving the copy of the petition, the assessor of property shall report to the county executive and the chairperson of the county legislative body whether or not in his or her opinion a majority of the property owners by parcel have petitioned the county according to this section.

(3) Notwithstanding any other provision of this chapter, a petition by property owners to the county under this section to contest an annexation shall be brought within thirty (30) days of the final passage of the annexation ordinance, and if the county legislative body adopts a resolution to contest the annexation, the county shall file suit to

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contest the annexation pursuant to this section within sixty (60) days of the final passage of the annexation ordinance.

(c) After the effective date of this act, and before the approval of its growth plan by the committee, a municipality may not extend its corporate limits by annexation of a public right-of-way, or any easement owned by a governmental entity or quasi-governmental entity, railroad, utility company, or federal entity such as the U.S. Army Corps of Engineers or the Tennessee Valley Authority, or natural or man-made waterway, or any other corridor except in the following circumstances:

(1) the annexed area also includes each parcel of property contiguous to the right of way, easement, waterway or corridor adjacent on at least one side, or

(2) the municipality receives the approval of the county legislative body of the county wherein the territory proposed to be annexed lies.

(d) Nothing in this section shall be construed to prevent a municipality from proposing extension of its corporate limits by the procedures in Sections 6-51-104 and 105. Provided, further, if the territory proposed to be annexed does not have any residents, such annexation may be accomplished only with the concurrence of the county as provided in (a) above.

(e) A municipality may not annex by ordinance upon its own initiative territory in any county other than the county in which the city hall of the annexing municipality is located, with these exceptions:

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(1) A municipality located in two (2) or more counties as of November 25, 1997, may enact such annexations in all counties, unless the percentage of the municipal population residing in the county or counties other than those in which the city hall is located is less than five percent (5%) of the total population of the municipality.

(2) A municipality may enact such an annexation with the approval by resolution of the county legislative body of the county in which the territory proposed to be annexed is located.

SECTION 10. (a) Upon approval of its growth plan by the committee, each municipality within the county and the county shall receive an additional five (5) points on a scale of one hundred (100) points or a comparable percentage increase as determined by the commissioner in any evaluation formula for the allocation of private activity bond authority and for the distribution of grants from the department of economic and community development for the:

(1) Tennessee Industrial Infrastructure Program;

(2) Industrial Training Service Program; and

(3) Community Development Block Grants.

(b) Upon filing its growth plan with the committee, each municipality within the county and the county shall receive an additional five (5) points on a scale of one hundred (100) points or a comparable percentage increase as determined by the commissioner in any evaluation formula for the distribution of grants from the department of environment and conservation for state revolving fund loans for water and sewer systems.

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(c) Upon filing its growth plan with the committee, each municipality within the county and the county shall receive an additional five (5) points on a scale of one hundred (100) points or a comparable percentage increase as determined by the executive director in any evaluation formula for the distribution of HOUSE or HOME grants from the Tennessee Housing Development Authority or low income tax credits or private activity bond authority; provided, however, no such preferences shall be granted if prohibited by federal law or regulation.

SECTION 11. Effective July 1, 2001, the following loan and grant programs shall be unavailable in those counties and municipalities that have failed to submit growth plans to the committee, and shall remain unavailable until growth plans have been submitted:

(1) Tennessee Housing Development Agency Grant Programs;

(2) Community Development Block Grants;

(3) Tennessee Industrial Infrastructure Program Grants;

(4) Industrial Training Service Grants;

(5) Intermodal Surface Transportation Efficiency Act funds; and

(6) Tourism Development Grants.

SECTION 12. (a) Within a municipality's approved urban growth boundaries, a municipality may use any of the methods in Title 6, Chapter 51 to annex territory. Provided, however, if a quo warranto action is filed to challenge the annexation, the party filing the action has the burden of proving that:

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(1) An annexation ordinance is unreasonable for the overall well-being of the communities involved; and

(2) The health, safety, and welfare of the citizens and property owners of the municipality and territory will not be materially retarded in the absence of such annexation.

(b) In any such action, the action shall be tried by the circuit court judge or chancellor without a jury.

(c) A municipality may not annex territory by ordinance beyond its urban growth boundary without following the procedure in subsection (d).

(d)(1) If a municipality desires to annex territory beyond its urban growth boundary, the municipality shall first propose an amendment to its urban growth boundary with the county legislative body under the procedure in Section 5.

(2) As an alternative to proposing a change in the urban growth boundary to the county legislative body, the municipality may annex the territory by referendum as provided in §§6-51-104 and 6-51-105.

(e) Within an urban growth boundary, but beyond the corporate limits of any municipality, a county may provide services and set a separate tax rate specifically for the services provided to the affected territory.

SECTION 13.

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(a)(1) A new municipality may only be created in territory approved as planned growth area in conformity with the provisions of Section 5;

(2) A county may provide or contract for the provision of services within a planned growth area and set a separate tax rate specifically for the services provided within a planned growth area; and

(3) A county may establish zoning regulations for a planned growth area.

(b) An existing municipality which does not operate a school system or a municipality incorporated after the effective date of this act, may not establish a school system.

(c) A municipality incorporated after the effective date of this act, shall impose a property tax that raises an amount of not less than the amount of the annual revenues derived by the municipality from state shared taxes. The municipality shall levy and collect the property tax before the municipality may receive state shared taxes.

(d)(1) If the residents of a planned growth area petition to have an election of incorporation, the county legislative body shall approve the corporate limits and the urban growth boundary of the proposed municipality before the election to incorporate may be held.

(2) Within six (6) months of the incorporation election, the municipality shall adopt by ordinance a plan of services for the services the municipality proposes to deliver. The municipality shall prepare and publish its plan of services in a newspaper of

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general circulation distributed in the municipality. The rights and remedies of §6-51-108 apply to the plan of services adopted by the municipality.

SECTION 14. Any territory approved as a rural area may not be served by a sanitary sewer system for residential customers if such rural area is not served by a sanitary sewer system on the effective date of this act.

SECTION 15.

(a) It is the intent of the general assembly that local governments engage in long-term planning, and that such planning be accomplished through regular communication and cooperation among local governments, the agencies attached to them, and the agencies that serve them. It is also the intent of the general assembly that the growth plans required by this bill result from communication and cooperation among local governments.

(b) There shall be established in each county a joint economic and community development board which shall be established by interlocal agreement pursuant to Tennessee Code Annotated, Section 5-1-113. The purpose of the board is to foster communication relative to economic and community development between and among governmental entities, industry, and private citizens.

(c) Each joint economic and community development board shall be composed of representatives of county and city governments, private citizens, and present industry and businesses. The final makeup of the board shall be determined by interlocal

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agreement but shall, at a minimum, include the county executive and the mayor or city manager, if appropriate, of each city lying within the county and one (1) person who owns land qualifying for classification and valuation under Tennessee Code Annotated, Title 67, Chapter 5, Part 10. Provided, however, in cases where there are multiple cities, smaller cities may have representation on a rotating basis as determined by the interlocal agreement.

(d) There shall be an executive committee of the board which shall be composed of members of the joint economic and community development board selected by the entire board. The makeup of the executive committee shall be determined by the entire joint economic and community development board but shall, at a minimum, include the county executive and the mayors or city manager of the larger municipalities in the county.

(e) The terms of office shall be determined by the interlocal agreement but shall be staggered except for those positions held by elected officials whose terms shall coincide with the terms of office for their elected positions. All terms of office shall be for a maximum of four (4) years.

(f) The board shall meet, at a minimum, four (4) times annually and the executive committee of the board shall meet at least eight (8) times annually. Minutes of all meetings of the board and the executive committee shall be documented by minutes

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kept and certification of attendance. Meetings of the joint economic and community development board and its executive committee are subject to the open meetings law.

(g)(1) The activities of the board shall be jointly funded by the participating governments. The formula for determining the amount of funds due from each participating government shall be determined by adding the population of the entire county as established by the last federal decennial census to the populations of each city as determined by the last federal decennial census, or special census as provided for in Section 6-51-114, and then determining the percentage that the population of each governmental entity bears to the total amount.

(2) If a special census has been certified pursuant to Tennessee Code Annotated Section 6-51-114 during the five (5) year period after certification of the last federal decennial census, the formula shall be adjusted by the board to reflect the result of the special census. Provided, however, the board shall only make such an adjustment during the fifth year following the certification of a federal decennial census.

(3) The board may accept and expend donations, grants and payments from persons and entities other than the participating governments.

(h) An annual budget to fund the activities of the board shall be recommended by the executive committee to the board which shall adopt a budget before the first day of April of each year. The funding formula established by this act shall then be applied

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to the total amount budgeted by the board as the participating governments' contributions for the ensuing fiscal year. The budget and a statement of the amount due from each participating government shall be immediately filed with the appropriate officer of each participating government. In the event a participating government does not fully fund its contribution, the board may establish and impose such sanctions or conditions as it deems proper.

(i) When applying for any state grant a city or a county shall certify its compliance with the requirements of this section.

SECTION 16. This part shall not apply to any annexation ordinance that was not final on November 25, 1997.

SECTION 17. Tennessee Code Annotated, Section 67-2-119, is amended by adding the following new subsection:

(e)(1) Notwithstanding the distribution formula above, effective July 1,1998, the department of revenue shall determine the local share of the tax established by this chapter for fiscal year 1997-1998, and such amount shall be known as the "Hall Income Tax Base Amount". All revenue in excess of that amount shall be called the "Hall Income Tax Growth Amount" and shall be distributed by the department of revenue to each local education agency on the basis of average daily membership. Each local education agency may spend such funds for any non-recurring educational purpose including capital expenditures.

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(2) Effective July 1, 2001, the department shall withhold the "Hall Income Tax Growth Amount" from any local education agency within a county other than a county having a metropolitan form of government that has not submitted a growth plan. Upon submission of a growth plan to the committee, the distribution of the "Hall Income Tax Growth Amount" on an average daily membership basis shall recommence.

SECTION 18. (a) Tennessee Code Annotated, Section 7-2-101, is amended by adding the following as subdivision (4):

(4) The commission may be created upon receipt of a petition, signed by qualified voters of the county, equal to at least ten percent (10%) of the number of votes cast in the county for governor in the last gubernatorial election.

(A) Such petition shall be delivered to the county election commission for certification. After the petition is certified, the county election commission shall deliver the petition to the governing body of the county and the governing body of the principal city in the county. Such petition shall become the consolidation resolution of the county and the principal city in the county. The resolution shall provide that a metropolitan government charter commission is established to propose to the people the consolidation of all, or substantially all, of the government and corporate functions of the county and its principal city and the creation of a metropolitan government for the administration of the consolidated functions.

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(B) Such resolution shall either:

(i) Authorize the county executive or county mayor to appoint ten (10) commissioners, subject to confirmation by the county governing body, and authorize the mayor of the principal city to appoint five (5) commissioners, subject to confirmation by the city governing body; or

(ii) Provide that an election shall be held to select members of the metropolitan government charter commission; provided, however, if the governing body of the county and the governing body of the principal city cannot agree on the method of selecting members of the metropolitan government charter commission within sixty (60) days of certification, then an election shall be held to select members of the metropolitan government charter commission as provided in Section 7-2-102.

(C) It is the legislative intent that the persons appointed to the charter commission shall be broadly representative of all areas of the county and principal city and that every effort shall be made to include representatives from various political, social, and economic groups within the county and principal municipality.

(D) When such resolution shall provide for the appointment of commissioners of the county and city, the metropolitan government charter

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commission shall be created and duly constituted after appointments have been made and confirmed.

(E) When such resolution shall provide for an election to select members of the metropolitan government charter commission, copies thereof shall be certified by the clerk of the governing bodies to the county election commission, and thereupon an election shall be held as provided in Section 7-2-102.

(F) When the consolidation resolution provides for the appointment of members of the metropolitan government charter commission, such appointments shall be made within thirty (30) days after the resolution is submitted to the governing bodies of the county and the principal city.

(b) Tennessee Code Annotated, Section 7-2-101(1)(B)(i), is amended by deleting the words “presiding officer of the county governing body” and substituting instead the 00words “county executive or county mayor”.

(c) Tennessee Code Annotated, Section 7-2-101(2)(B), is amended by deleting the words “presiding officer of the county governing body” and substituting instead the words “county executive or county mayor”.

(d) Tennessee Code Annotated, Section 7-2-101(2)(B)(i), is amended by deleting wherever they may appear, the words “presiding officer of the county governing body” and substituting instead the words “county executive or county mayor”.

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SECTION 19. Tennessee Code Annotated, Section 6-51-102, is amended by deleting subsection (b) and substituting instead the following:

(b) Before any territory may be annexed under this section by a municipality, the governing body of the municipality shall adopt a plan of service setting forth at a minimum the identification and projected timing of municipal services proposed to be extended into the territory to be annexed. The plan of services shall include, but not be limited to: police protection, fire protection, water service, electrical service, sanitary sewage system, solid waste disposal, road and street construction and repair, recreational facilities, and the zoning services which the municipality shall enact for the territory proposed to be annexed; provided, however, a plan of services may exclude the services which are being provided by another public agency or private company in the territory to be annexed. Before a plan of services may be adopted, the municipality shall submit the plan of services to the local planning commission, if there is one, for study and a written report, to be rendered within ninety (90) days after such submission, unless by resolution of the governing body a longer period is allowed. Before the adoption of the plan of services, a municipality shall hold a public hearing. Notice of the time and place of the public hearing shall be published in a newspaper of general circulation in the municipality not less than seven (7) days before the hearing. The notice shall include the locations of a minimum of three (3) copies of the plan of services

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which the municipality shall provide for public inspection during all business hours from the date of notice until the public hearing.

(b)(1) Before any territory may be annexed under this section by a municipality, the governing body shall adopt a plan of services establishing at least the services to be delivered and the projected timing of the services. The plan of services shall be reasonable with respect to the scope of services to be provided and the timing of the services.

(2) The plan of services shall include, but not be limited to: police protection, fire protection, water service, electrical service, sanitary sewer service, solid waste collection, road and street construction and repair, recreational facilities and programs, street lighting, and zoning services. The plan of services may exclude services which are being provided by another public agency or private company in the territory to be annexed other than those services provided by the county.

(3) The plan of services shall include a reasonable implementation schedule for the delivery of comparable services in the territory to be annexed with respect to the services delivered to all citizens of the municipality.

(4) Before a plan of services may be adopted, the municipality shall submit the plan of services to the local planning commission, if there is one, for study and a written report, to be rendered within ninety (90) days after such submission, unless by resolution of the governing body a longer period is allowed. Before the adoption of the plan of

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services, a municipality shall hold a public hearing. Notice of the time and place of the public hearing shall be published in a newspaper of general circulation in the municipality not less than seven (7) days before the hearing. The notice shall include the locations of a minimum of three (3) copies of the plan of services which the municipality shall provide for public inspection during all business hours from the date of notice until the public hearing.

(5) A municipality may not annex any other territory if the municipality is in default on any prior plan of services.

(6) After July 1, 2008, a municipality may not annex any other territory if the municipality does not deliver directly or by contract comparable services to all citizens in similar areas of the municipality. In addition, a municipality that is not in compliance with the schedule in the plan of services for an annexed territory, may not annex any other territory.

(7) If a municipality operates a school system, and if the municipality annexes territory during the school year, any student may continue to attend his or her present school until the beginning of the next succeeding school year unless the respective boards of education have provided otherwise by agreement.

SECTION 20. Tennessee Code Annotated, Section 6-51-102(a)(2), is amended by adding the following new subdivisions:

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(2)(A) If an annexation ordinance is not final on the effective date of this act, and if the municipality has not prepared a plan of services, the municipality shall have sixty (60) days to prepare a plan of services.

(B) For any annexation ordinance that is not final on the effective date of this act or adopted after the effective date and before the approval of the growth plan by the committee, the county legislative body of the county where the territory subject to annexation ordinance may file a suit in the nature of a quo warranto proceeding to contest the reasonableness of the plan of services.

(C) If the court finds the plan of services to be unreasonable, or to have been done by exercise of powers not conferred by law, an order shall be issued vacating the same and the municipality shall be prohibited from annexing, pursuant to the authority of §6-51-102, any part of the territory proposed for annexation by such vacated ordinance for a period of at least twenty-four (24) months following the date of such order. In the absence of such finding, an order shall be issued sustaining the validity of such ordinance, which shall then become operative thirty-one (31) days after judgment is entered unless an abrogating appeal has been taken therefrom.

SECTION 21. Tennessee Code Annotated, Section 6-51-108(b), is amended by deleting the first sentence and substituting instead the following:

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Upon the expiration of six (6) months from the date any annexed territory for which a plan of service has been adopted becomes a part of the annexing municipality, and every six (6) months thereafter until services have been extended according to such plan, there shall be prepared and published in a newspaper of general circulation in the municipality a report of the progress made in the preceding year toward extension of services according to such plan, and any changes proposed therein. The governing body of the municipality shall publish notice of a public hearing on such progress reports and changes, and hold such hearing thereon.

Tennessee Code Annotated, Section 6-51-108, is amended by deleting the next to the last sentence in subsection (b) and by adding the following as new subsections (c) and (d):

(c) A municipality may amend a plan of services by resolution of the governing body only after a public hearing for which notice has been published at least seven (7) days in advance in a newspaper of general circulation in the municipality when:

(1) The amendment is reasonably necessary due to natural disaster, act of war, act of terrorism, or reasonably unforeseen circumstances beyond the control of the municipality; or

(2) The amendment does not materially or substantially decrease the type or level of services or substantially delay the provision of services specified in the original plan; or

(3) The amendment:

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(i) proposes to materially and substantially decrease the type or level of services under the original plan or to substantially delay those services; and

(ii) is not justified under (c)(1); and

(iii) has received the approval in writing of a majority of the property owners by parcel in the area annexed. In determining a majority of property owners, a parcel of property with more than one owner shall be counted only once and only if owners comprising a majority of the ownership interests in the parcel petition together as the owner of the particular parcel.

(d) An aggrieved property owner in the annexed territory may bring an action in the appropriate court of equity jurisdiction to enforce the plan of services at any time after one hundred and eighty (180) days after an annexation by ordinance takes effect and until the plan of services is fulfilled, and may bring an action to challenge the legality of an amendment to a plan of services if such action is brought within thirty (30) days after the adoption of the amendment to the plan of services. If the court finds that the municipality has amended the plan of services in an unlawful manner, then the court shall decree the amendment null and void and shall reinstate the previous plan of services. If the court finds that the municipality has materially and substantially failed to comply with its plan of services for the territory in question, then the municipality shall be

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given the opportunity to show cause why the plan of services was not carried out. If the court finds that the municipality's failure is due to natural disaster, act of war, act of terrorism, or reasonably unforeseen circumstances beyond the control of the municipality which materially and substantially impeded the ability of the municipality to carry out the plan of services, then the court shall alter the timetable of the plan of services so as to allow the municipality to comply with the plan of services in a reasonable time and manner. If the court finds that the municipality's failure was not due to natural disaster, act of war, act of terrorism, or reasonably unforeseen circumstances beyond the control of the municipality which materially and substantially impeded the ability of the municipality to carry out the plan of services, then the court shall issue a writ of mandamus to compel the municipality to provide the services contained in the plan, shall establish a timetable for the provision of the services in question, and shall enjoin the municipality from any further annexations until the services subject to the court's order have been provided to the court's satisfaction, at which time the court shall dissolve its injunction. If the court determines that the municipality has failed without cause to comply with the plan of services or has unlawfully amended its plan of services, the court shall assess the costs of the suit against the municipality.

SECTION 22. For any land that is used for agricultural purposes, a municipality may not use its zoning power to interfere in any way with the use of such land for agricultural purposes as long as the land is used for agricultural purposes.

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SECTION 23. Tennessee Code Annotated, Title 6, Chapter 51, Part 1, is amended by adding the following as a new section:

Section __. No provision of this act applies to an annexation in any county with a metropolitan form of government in which any part of the general services district is annexed into the urban services district.

SECTION 24. Tennessee Code Annotated, Section 6-51-115, is amended by designating the existing section as subsection (a), renumbering present subsections as subdivisions, and adding the following as new subsections:

(b) In addition to the preceding provisions of this section, when a municipality annexes territory in which there is retail or wholesale activity at the time the annexation takes effect or within three (3) months after the annexation date, the following apply:

(1) Notwithstanding the provisions of Section 57–6-103 or any other law to the contrary, for wholesale activity involving the sale of beer, the county shall continue to receive annually an amount equal to the amount received by the county in the twelve (12) months immediately preceding the effective date of the annexation for beer establishments in the annexed area that produced Wholesale Beer Tax revenues during that entire twelve (12) months. For establishments that produced Wholesale Beer Tax revenues for at least one (1) month but less than the entire twelve (12) month period, the county shall continue to receive an amount annually determined by averaging the amount of

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Wholesale Beer Tax revenue produced during each full month the establishment was in business during that time and multiplying this average by twelve (12). For establishments which did not produce revenue before the annexation date but produced revenue within three (3) months after the annexation date, and for establishments which produced revenue for less than a full month prior to annexation, the county shall continue to receive annually an amount determined by averaging the amount of Wholesale Beer Tax revenue produced during the first three (3) months the establishment was in operation and multiplying this average by twelve (12). The provisions of this subdivision are subject to the exceptions in subsection (c).

(2) Notwithstanding the provisions of Section 67-6-712 or any other law to the contrary, for retail activity subject to the Local Option Revenue Act, the county shall continue to receive annually an amount equal to the amount of revenue the county received pursuant to Section 67-6-712(a)(2)(A) in the twelve (12) months immediately preceding the effective date of the annexation for business establishments in the annexed area that produced Local Option Revenue Act revenue during that entire twelve (12) months. For business establishments that produced such revenues for more than a month but less than the full twelve (12) month period, the county shall continue to receive an amount annually determined by averaging the amount of Local Option Revenue

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produced by the establishment and allocated to the county under Section 67-6-712(a)(2)(A) during each full month the establishment was in business during that time and multiplying this average by twelve (12). For business establishments which did not produce revenue before the annexation date and produced revenue within three (3) months after the annexation date, and for establishments which produced revenue for less than a full month prior to annexation, the county shall continue to receive annually an amount determined by averaging the amount of Local Option Revenue produced and allocated to the county under Section 67-6-712(a)(2)(A) during the first three (3) months the establishment was in operation and multiplying this average by twelve (12). The provisions of this subdivision are subject to the exceptions in subsection (c).

(c) Subsection (b) is subject to these exceptions:

(1) Subdivision (b)(1) ceases to apply as of the effective date of the repeal of the Wholesale Beer Tax, should this occur.

(2) Subdivision (b)(2) ceases to apply as of the effective date of the repeal of the Local Option Revenue Act, should this occur.

(3) Should the General Assembly reduce the amount of revenue from the Wholesale Beer Tax or the Local Option Revenue Act, accruing to municipalities by changing the distribution formula, the amount of revenue accruing to the

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county under subsection (b) will be reduced proportionally as of the effective date of the reduction.

(4) A county, by resolution of its legislative body, may waive its rights to receive all or part of the revenues provided by subsection (b). In these cases, the revenue shall be distributed as provided in Sections 57-6-103, and 67-6-712, of the respective tax laws unless otherwise provided by agreement between the county and municipality.

(5) Annual revenues paid to a county by or on behalf of the annexing municipality are limited to the annual revenue amounts provided in subsection (b) and known as "annexation date revenue" as defined in subdivision (e)(2). Annual situs-based revenues in excess of the "annexation date revenue" allocated to one (1) or more counties shall accrue to the annexing municipality. Any decrease in the revenues from the situs based taxes identified in subsection (b) shall not affect the amount remitted to the county or counties pursuant to subsection (b) except as otherwise provided in this subsection. Provided, however, a municipality may petition the department of revenue no more often than annually to adjust annexation date revenue as a result of the closure or relocation of a tax producing entity.

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(d)(1) It is the responsibility of the county within which the annexed territory lies to certify and to provide to the department of revenue a list of all tax revenue producing entities within the proposed annexation area.

(2) The department of revenue shall determine the local share of revenue from each tax listed in this section generated within the annexed territory for the year before the annexation becomes effective, subject to the requirements of subsection (b). This revenue shall be known as the "annexation date revenue".

(3) The department of revenue with respect to the revenues described in subdivision (b)(2), and the municipality with respect to the revenues described in subdivision (b)(1), shall annually distribute an amount equal to the annexation date revenue to the county of the annexed territory.

SECTION 25. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 26. This act shall take effect upon becoming a law, the public welfare requiring it.